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Colonial agency

London

1842

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# COLONIAL AGENCY.

ADDRESSED TO

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## COLONIAL LANDHOLDERS

RESIDING IN

## GREAT BRITAIN.

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LONDON.

WILLIAM EDWARD PAINTER, 342, STRAND,

PRINTER AND PUBLISHER.

1842.

*Price Sixpence.*

## COLONIAL AGENCY.

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THE object of this paper is, first, to show that the present system of Colonial Agency is by no means so beneficial to individuals in England possessing property in the Colonies as it might be; and, secondly, to point out what is conceived to be a remedy for the defects of this system.

A colonial agent is, as generally understood in ordinary cases, a person entrusted with certain powers, by which he is enabled, in a greater or less degree, to represent the absent principal—these powers, of course, depend upon the degree of confidence which the latter is disposed to place in him. The agent is usually empowered to let lands, under certain restrictions, and to receive the rents, paying them over as may be arranged between the parties. The following observations apply only to agents of principals possessing lands or houses in the colonies, and to such agents only as are authorized to receive the profits arising from such lands.

Now, in the first place, it may be asked of those gentle-

men who possess property of any description in the colonies, whether, in the majority of cases, they can say conscientiously that they are upon the whole satisfied with the diligence of their agents in getting in the rents or monies due to them, and also in remitting the same? On the contrary, is it not a very general complaint, that the advantage of a comparatively large rate of interest, which is in many cases derived from money invested in colonial property, is more than counterbalanced by the vexation and annoyance attending remittances to England.\*

That this must continue to be the case under the system which now exists seems pretty clear, taking even the most favourable view of the case, as far as the agents are concerned; for although they may be honest and well-intentioned individuals, still the temptation of assisting a friend in difficulties, or the like, may often induce them to lend that money which has been received on their principal's behalf, fully intending, perhaps, to remit it to England on its repayment, and which repayment the borrower no doubt faithfully promises shall be without fail in a very short period; and yet it is plain, that when once the agent has parted, for purposes of his own, no matter how laudable

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\* That there are exceptions is most true; and gratifying it is to know, that there are gentlemen in the colonies, who manage the estates of their principals entirely to the satisfaction of the latter, so much so as to leave them no ground for supposing that their property could be better superintended under their own personal inspection. To such agents, of course, these observations do not apply.

they may be in other respects, with money belonging to his principal, he is in effect guilty of a breach of trust, and has put it out of his power to act with that strict and necessary punctuality which alone can produce a well-grounded confidence on the part of his employer.

Again, although the agent may not have actually lent the money, or indeed have received it, still he may act in such a way as to cause the same delay in its remittance to England as if he had done so, for he may favour the tenant so far as to give him an unreasonable time for the payment of his rent. Whether he do this from interested motives or not is immaterial, the principal in England suffers, whatever may be the cause. Tenants, distant several thousand miles from those of whom they hold, are not generally too much in a hurry to pay their rents—it is a long way to England. And as for the agent, it is not unnatural that he should abstain from pressing (unless for his own purposes) a man with whom he may be, perhaps, intimately acquainted, whom he is in the habit of frequently seeing, and who possibly may have it in his power to return the favour shewn to him—in such a case, it is not difficult to see that the distant principal is but little considered. That there should be a complete remedy for this, under the existing system, it is difficult to see; the present system will work well or ill, exactly, or almost exactly, in proportion to the integrity of the agent, and, perhaps it should be added, to his judgment. An able and strictly conscientious agent (and there are many such, no doubt) will act as well for the principal as if he himself were the only party to

profit by his conduct; he will always keep in view the interests of his employer, and turn neither to the right nor to the left from that strict line of duty which he will mark out for himself as the only one to be followed; but even with such an agent the ordinary delay, on the tenant's part, will be inevitable. Act as the agent may, it is not to be supposed that even good tenants will, in a distant colony, where money is so exceedingly valuable, be very punctual in the payment of their rents; there will always be some plausible reason for their want of punctuality, and the adoption of harsh measures will eventually prove more prejudicial to the proprietor than the delay which they may perhaps have the effect of correcting; even in the most favourable point of view, there must be considerable uncertainty in the remittance of money to England, and this uncertainty it is which must be most annoying to those expecting, and perhaps in some measure depending, upon such remittance: the mere delay on the tenant's part of paying, or on the agent's part of remitting, money, would not be much if it were certain and regular; but it is not easy to see how under the present system this certainty and regularity are to be attained.\* The writer of these pages is not aware that any plan has hitherto been proposed which an adoption has been found to remedy the inconvenience here

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\* Absolute certainty and regularity are, of course, impossible under any system; but the more calculated a system is to ensure these great objects the more perfect it will be.

slightly touched upon, or indeed that any plan has been proposed professedly with such a view.

Such a remedy, it is the object of this little pamphlet to propose. The plan which is now suggested will, it is conceived, effect these objects:—

I. To make it the tenant's interest to pay his rent within a certain time.

II. To put it out of the agent's power to retard the remittance of such rent to the principal in England.

III. To ensure the remittance of the money to the principal, within the shortest practicable time after it has been paid by the tenant.

1. Now, as to the first point, it is plain, that if any strong inducement could be held out to the tenant to pay his rent punctually, he would do so. If it could be shown to him, that if he has the money ready for that purpose, the very best possible thing for him to do with it is, to pay it over as soon after it becomes due as he can—no doubt he would do so. Now this inducement would be held out to him, if, in the lease or agreement by which he held, a covenant were to be inserted to the effect, that if within one month, or twenty-one days (according to the usual clause of re-entry on non-payment of rent) of the rent becoming due, he should pay it into certain parties' hands\* (*but not the agents*), eight per cent. should be returned to him;

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\* Vide p. 10, 11, post under third head.

but that, in default, he should pay, in addition to the full rent, eight per cent.\* Here the tenant has at once a pecuniary interest, if he has the money ready to pay it within the month, &c.; and if he has it not, it is decidedly to his interest to make every effort to procure it, if, by any means, he can. Indeed, there cannot be much doubt, that tenants, with such a covenant as this on their leases, will strain every nerve to be punctual; and it will be seen presently, that where the eight per cent. is allowed, the landlord will only receive three per cent. less than he does now. In no case hardly would the tenant be tempted to do anything else with this rent, except to pay it in; for putting even the very improbable case, that the tenant resolves not to pay over his rent until six months after it is due, and that he makes by it even forty per cent., still he is actually, in a pecuniary point of view, in no better situation than if he had paid the money at the proper period, and received the usual discount.† It does appear, therefore, reasonable to suppose,

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\* For the valuable suggestion, that on default the tenant should pay eight per cent. in addition to his rent, I am indebted to a gentleman of much experience in colonial matters.

† As—say the rent is 50*l.* per annum; within a month or twenty-one days after quarter-day 12*l.* 10*s.* is paid, of which 1*l.*, or eight per cent. is returned—that is, 11*l.* 10*s.* only, is paid. Now, suppose the 12*l.* 10*s.* to be employed by the tenant, so that he makes 40 per cent. by it for six months, *i. e.*, 2*l.* 10*s.* 0*d.*; well, he has to pay his landlord, first, the 12*l.* 10*s.*; secondly, colonial interest on that, or 10 per cent., from the time of its becoming due, *i. e.*, for six months, that is, 12*s.* 6*d.*; and

that, as far as the tenant is concerned, this plan would be highly successful. No doubt he may sometimes make a hundred per cent. by his money, in such cases, of course, there will be a temptation not to pay the rent but there will still be the counteracting inducement to stand well with his landlord by doing so.

But it may be said—Tenants will think that the eight per cent., which is nominally deducted from their rent on its punctual payment, is, in reality, not so, but that it is added to the rent on the land being let. It is answered—That if the tenant even should think so, there is the same inducement to him to pay his rent punctually; he knows that by so doing he saves eight per cent.—by not doing so, he loses sixteen per cent. at the least. Whatever he may think of his landlord's motives, his interest is clearly to pay the rent in the way mentioned. But it may be urged, he would not take the land at all, regarding this as a mere trick on the landlord's part. Now let us suppose the following case:—A person comes to an agent entrusted to let land on the proposed system. The value of land is tolerably well known. It is known that A. gives so much per annum for his land, B. so much again for his, and so on—a reasonably accurate estimate of the value of the land is thus obtained. Now it is not to be supposed that the agent

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thirdly, the eight per cent., or 1*l.*, which he covenants to pay in addition to the rent, on default of payment at the appointed time—together 14*l.* 2*s.* 6*d.*—*i. e.*, the 11*l.* 10*s.* he would have had to pay, if payment had been made within the month, &c., *plus* the whole of his gains of 40 per cent. on the quarter's rent and rather more.

will ask more for the principal's land than other agents; it is not to his interest to do so, for as soon as the land is let, the sooner he receives his commission; and it is not to his principal's—for the principal, by acting upon this system, consents to take less by three per cent. than under the old system, and therefore it is to his interest to let his land on the same terms as his neighbours. There is no reason for supposing, therefore, that more will be asked for land let on this plan than on the old. A person qualified to form an opinion of the value of land would see what was a fair rent for it. If it were made clear to him, as it could readily be done, that it is to the interest of the landlord to return him eight per cent. of that rent, in consideration of certain advantages he thereby gains, he could have no objection to take the land.

II. It is clear, that as the agent does not, directly or indirectly, touch the money to be remitted, but, on the contrary, has as little to do with it (except in certain cases afterwards mentioned), as the merest stranger, he cannot influence either one way or the other the remittance to England; for it should be a part of the agreement between landlord and tenant, that in no case should the money voluntarily paid, and not under compulsion of legal proceedings, be received by the agent; and that a discharge by him should not be a discharge by the principal, except where he has been obliged to distrain or sue for the rent.

III. To effect this object the payment should be made to some Banking Company in the place, which should be autho-

rized to give receipts. It would be sufficiently to the interest of this company to act thus, as pecuniary agents to parties residing in England, and to remit in bills, payable at, or soon after sight, the sums paid into their hands, charging the usual per centage, which the principal must pay now, if the money be, as is the only safe way, remitted by means of the Colonial Bank. To ensure a prompt remittance, it should be a part of the regular agent's duty to ascertain when the rent was paid in, and in his next advice to his principal to state this fact, and mention at the same time when the first vessel started for England after such payment. The principal would thus be always in a condition to appreciate the punctuality of all parties. It is obvious, too, that by this method there will be less risk of loss to the principal than where money is received by an agent in the ordinary way: the capital possessed by a large banking concern being something to look to as a guarantee against loss.

The ordinary agent should have, generally speaking, nothing to do with the receipt of the rents. In case, however, of the usual banking company becoming insolvent, he should have the power to give the tenant notice not to pay in the rent to that, but to some other bank. And in one or two other cases, he may be vested with a discretionary power of deciding as to the best mode of remitting money to England, or of dealing with it previous to remittance. As, to put an extreme case, suppose there should be no solvent banking company in the place, it might be advisable that the agent should give the tenant notice



to keep his rent until arrangements should be made with some solvent well-known individual, or firm, for remitting the money. In such case, of course the tenant, if he was prepared to pay at the proper time, would be entitled to his discount of eight per cent. on paying the money afterwards.

In the case of the agent being obliged to institute legal proceedings against the tenant—and in such case only should he have the power of receiving the money due, and of transmitting it through the bank to the principal in England—in all probability the necessity for distraining, or bringing an action for the rent, will but rarely arise, the pecuniary inducement held out to the tenant to pay it punctually being so considerable. In such case, however, if the agent be really an honest man, the money, as soon as recovered, will be paid into the bank at once, and remitted without delay. If he be not, he will deal with it according to his own convenience. It must be observed, however, that in this view of the case it will be to his interest to take steps the instant he can do so, in order to compel the tenant to pay the money to him. After a little experience, the tenant will feel he has no indulgence to look for from such an agent, but that he will distrain, or bring an action, the moment by law he is entitled to do so. There is, therefore, in this case the additional motive to urge the tenant to punctuality, that by it he avoids the otherwise almost certain annoyance of a distress or an action; and this is the point of view the most unfavorable for the principal, and in which he is considered as having the misfortune of being represented by a dishonest agent.

Thus an attempt has been made briefly to show what the working of this plan would probably be. As far as the tenant and banker are concerned, there will not, it is apprehended, be much difficulty; but as it is proposed that the agent should only receive five per cent. on the money paid in (thus making the entire percentage paid by the landlord, in addition to the sum paid to the banker for remitting thirteen per cent.), it may be said respectable agents will not be found to undertake the office at so small a remuneration, especially when all control over the rent is taken from him. As to this point, if agents now only act in that capacity, in order to have the control of their principal's money, the sooner such agents are removed the better; the benefit to be derived from *their* agency must be of the most uncertain nature. That there are individuals who will accept the responsibilities of agents for the remuneration of five per cent.—individuals of strict integrity, and perfectly qualified, cannot be doubted,\* when it is considered that they

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\* If it be said that no respectable man would accept such an agency, because he would feel degraded by the want of confidence shown by his principal: it is answered, that where the principal has long known the agent, and has had opportunities of becoming acquainted with his character, the latter might feel hurt at being offered an agency on these terms—for he might fairly say to the principal, "You have had full opportunity of becoming acquainted with my character; from the fact, therefore, that you refuse me your complete confidence, I infer that there is something which is objectionable in it in your eyes; therefore I refuse your agency." But how stands the case where the principal

will, in ordinary cases, be free from the vexation and annoyance which must often fall to the share of an agent under the present system, when endeavouring to collect rents to remit to England, and that, in fact, their duties will be confined, under the plan suggested, to letting their principal's land to the best advantage, and to seeing that the tenant properly performs the covenants of his lease. And as this will be done if the agent himself is not an attorney, under the advice of one, his responsibility will, of course, be lessened; so that upon the whole, it may fairly be considered that the agent will be as well remunerated by five per cent. on the amount received by the principal, under the

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has had no opportunity of knowing the character, &c., of the agent, except from the representations of others? How can the agent feel degraded at being offered an agency with restricted powers, when he must feel that perfect confidence on the principal's part can only be acquired from an intimate knowledge of him—not a knowledge derived from what others, perhaps mere acquaintances, may say—but either a personal knowledge, or such as may be derived from the conduct of the agent during a course of years. Does the banker or the lawyer bestow his confidence upon the clerk he has last received into his office, however well recommended? And must the clerk feel degraded, and is he less a man of integrity, because complete trust and confidence is not placed in him by his master—confidence which is not the growth of a day, or a year, but a work of time? Many agents, very many, as must be known to most gentlemen possessing land in New Zealand, or South Australia, are as little (many much less) known to the principals in England who have been obliged to appoint them or remain unrepresented in the colony, as the clerk, the lawyer, or banker, takes upon recommendation.

proposed, as by receiving ten per cent. under the old system. If the agent be in the legal profession, then there will be one person less concerned in the agency, which perhaps may have its advantages; but this, of course, is a matter for the consideration of the principal.

It has been the writer's object, in the fewest possible words, to explain this proposed system, and what he conceives will be the working of it. It will be for those gentlemen who are interested in the subject to consider, upon the whole, whether it is likely to answer better than the old one, and if so to carry it into execution with such modifications as their judgment or experience may suggest.

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